

A message was received from the Governor transmitting the following communication :

*Gentlemen of the Senate,*

*and House of Representatives :*

I find myself reluctantly compelled to return, without approval, to the Senate, in which it originated, the act for the relief of the Houston and Texas Central Railway Company, with my objections thereto.

It is at all times unpleasant to disagree with the Legislature upon questions of public policy ; yet duty requires that I should withhold my sanction from all such acts as in my judgment conflicts with the Constitution, however diffident I may be of my own opinion, or however much I may be inclined to favor the objects sought to be attained.

On examining the act under consideration, I find it the same in substance, (the alterations being immaterial only) as the one from which I withheld my approval, and gave the reasons therefor, on the 26th of last month. The objections to that act exist in full force to this :

1st. The act is still liable to the objection of containing more than one object. The mere alteration of the caption cannot affect the body of the bill, unless that were changed in conformity with it.

2d. This, as well as the act before mentioned, on certain conditions remits the forfeiture of a bond of \$10,000, execu-

ted under the provisions of the act to encourage internal improvements, &c., and validates in the company a right to lands with which it could only be invested by virtue of a compliance with the conditions of the bond, executed under the law, from which their authority was derived. The Constitution declares, Article VII, section 24: "Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title." Now does this act come within this restriction?

The object expressed in the title of the Act is the relief of the Houston and Texas Central Railway Company; and by an examination of the body of the bill, it is found that the intention is to relieve the Company from the effects of a failure to comply with the conditions of their charter and the provisions of the Act to encourage the construction of internal improvements by donations of land, relief from every stipulation or condition, within the scope of the legislative power to alter, amend or remit, accruing from a failure to comply, may be properly incorporated in one enactment. But this Act, by its first section, grants permission to the Company to extend their Road northward and beyond the limits of the State, into the United States Indian Territory, and the Territory of Kansas, with the consent of the political authorities of such Territories. This is not relief; it is not the removal of any wrong, burden or grievance, under which the Company is laboring. It is, on the contrary, an amendment of the charter, and the extension of an additional privilege to the Company, which is not expressed in the title, nor has it any connection with that which is the main object of the Act. There can scarcely exist a doubt that the Act embraces two objects—one of which is the amendment of the charter by confering new privileges upon the Company, and the other the relieving them from the consequences of failure to comply with the conditions of the existing law.

It is too late to enquire into the wisdom of the Constitution in restricting laws enacted to one object.

The remaining objections to the Act are, to my mind, still more fatal to it than the foregoing. The bond sought to be canceled has already been forfeited. The lands have reverted to the public domain, and the Company have no claim to them. The time when the Legislature could relieve the Company passed by when the forfeiture accrued, and becomes the subject of Executive clemency as soon as it is attempted to be

enforced under Judicial sentence. This bond, executed under the act of January 30th, 1854, was forfeited for non-compliance with the conditions specified therein, on the first day of November, 1857. Can the Legislature remit this forfeiture? The 11th Section, Article 5, of the Constitution, provides that, "in all criminal cases, except in those of treason or impeachment, he (the Governor) shall have power, after conviction, to grant reprieves and pardons;" and, "under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures." By this clause the Executive is invested with absolute authority to grant reprieves and pardons in all criminal cases, and to remit forfeitures in *all* cases, under such rules as the Legislature may prescribe.

The 1st Section of the Act of 26th February, 1848, provides, "that, after conviction, the Governor shall, without restriction, have power to remit fines and forfeitures of a pecuniary character at his discretion." By another section it provides "that, after conviction, the Governor shall have power to remit forfeitures of lands, or of rights and privileges, or of forfeitures of any character known to our laws."

This law does not confer the power to remit forfeitures upon the Governor that is given by the Constitution, but contains the rules prescribed by the Legislature under which the power is to be exercised.

The power being thus conferred by the Constitution to remit forfeitures, the Legislature is necessarily excluded from its exercise. The objection may be urged, in relation to the bond, that there has been no decree of a Court declaring it forfeited. The forfeiture results from a non-performance of the conditions, and not from the already existing fact of forfeiture, and is the means by which it is enforced.

In the case of the lands, they reverted to the State, and became a part of the public domain, in the failure of the Company to complete the section of road according to the terms upon which they were issued. This is sufficiently declared by the law from which their authorization and survey are derived, and under which the bond was created.

As I have stated in my former message, they both occupy a like position; if the one has been forfeited, so has the other, and should depend on the same authority for remission. And, again: if, in the time within which the conditions were to have been fulfilled, relief and extension had been asked, there could have been no question as to the right of the Legislature

to grant it. But altogether a different state of the case is presented. The time expired, according to the face of the obligation by its own limitation, on the first day of November; and hence the Legislature must be estopped from action in the premises. The exercise of the power proposed in the bill necessarily involves the principle in every case of bond, contract or forfeiture, under the Constitution, including every case upon bail or recognizance, and of every other case where bonds with conditions are taken to the State, if not decreed by judgment of a Court. Believing its exercise in this case to be of most dangerous precedent, I should not be prepared to approve it, even though my mind were free from all doubt of the right in the Legislature to do so.

Signed,

H. R. RUNNELS.

On motion of Mr. Paschal, the bill and message were made the special order for Monday next, at 12 o'clock M.

On motion of Mr. Guinn, the Senate adjourned until 10 o'clock, Monday morning.

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